IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.999 of 2008
LAL BIHARI SINGH
Versus
STATE OF BIHAR
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2 10.9.2008 This revision application has been preferred against the judgement dated 30.6.2008 passed by the Additional Sessions Judge, Fast Track Court No.1, Patna in Criminal Appeal No. 148 of 1995, Tr.No.107 of 2005 thereby the order of conviction and sentence dated 6.9.1995 passed by Sri A.K.Thakur, Judicial Magistrate, 1st Class, Danapur in Complaint Case No. 471©89 Trial No.1603/95 has been confirmed.

The learned Magistrate vide judgment dated 6.9.1995 has convicted the petitioner and one other under Sections 323 and 324 of the Indian Penal Code and sentenced the petitioner to undergo rigorous imprisonment for six months for the offence under Section 323 of the Indian Penal Code and rigorous imprisonment for one year under Section324 of the Indian Penal Code.

This application is heard on the point of sentence only.

It is submitted by the learned counsel for the petitioner that this is a case of the year 1989.Both parties are Gotias amongst themselves. There was land dispute between the parties. In such circumstance, the court below ought to have released the petitioner under the provisions of Probation of Offenders Act. He has wrongly awarded substantive sentence to the petitioner.

Considered the submission of learned counsel for the petitioner. Perused the impugned judgment.

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The occurrence took place in the year 1989. The petitioner has already been harassed for about nineteen years. He has been found guilty only under Sections 323 and 324 of the Indian Penal Code under which punishment prescribed is much less than seven years. There is no criminal antecedent against the petitioner.

In the facts and circumstances of the case, I am of the view that the petitioner deserves benefit of provisions of Probation of Offenders Act.

Accordingly, sentenced awarded to the petitioner is hereby set aside. The petitioner, namely, Lal Bihari Singh, is directed to be released under Section 4 of Probation of Offenders Act on furnishing probation bond of Rs.2000/- (Two thousand) with two sureties of the like amount each the satisfaction of the satisfaction of Sri A.K. Thakur, Judicial Magistratek, 1st Class, Danapur in Complaint Case No. 471©/1989 for maintaining peace and be of good behaviour for a period of one year. The petitioner is directed to furnish probation bond within fifteen days of receipt/production of a copy of this order.

With the aforesaid modification in sentence, this application is rejected.

Let a copy of this order be sent to the court below through FAX on the cost to be deposited by the petitioner.

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B.Jha **(Ghanshyam Prasad)**